

Remarks

By the foregoing amendment, claims 11, 23, 26, and 33 are amended and claims 12–15 are canceled. Claims 35–40 are new. Applicant respectfully submits that no new matter was added by the amendment, as all of the amended matter was either previously illustrated or described in the drawings, written specification and/or claims of the present application. Entry of the amendment and favorable consideration thereof is earnestly requested.

The examiner objected to claim 15, 17–21, and 24–25 as being dependent upon a rejected base claim. The examiner indicated that the claims would be allowable if rewritten in independent form including all of the limitations of the base claims and any intervening claims.

The applicant has amended independent claim 11 to include the further limitations of dependent claim 15. The applicant respectfully submits that claim 11 as amended is now allowable, as it represents claim 15 rewritten in independent form. The applicant respectfully submits that claims 16–22, and 24–25 are allowable as they are dependent on newly amended independent claim 11, which incorporates the limitations of claim 15.

The applicant has amended claim 23 by deleting the limitation of the fan. The applicant respectfully submits that claim 23 is allowable as it depends on newly amended independent claim 11.

The examiner has objected to claims 26, and 33 under 35 U.S.C. 112, second paragraph as being indefinite for failing to point out and distinctly claim the subject

matter which applicant regards as his invention. Specifically, the examiner noted that claim 26, and 33 were confusing because the preamble recites an apparatus for treating particulate material, yet the body of the claim is silent as to how the particulate is treated in the apparatus, or an inlet to receive the particulate matter within the container of the claimed apparatus.

The test for determining definiteness under 35 U.S.C. 112, second paragraph, is whether "those skilled in the art would understand what is claimed when the claim is read in light of the specification." *Orthokinetics, Inc. v. Safety Travel Chairs, Inc.*, 806 F.2d 1565, 1576 (Fed. Cir. 1986). The applicant has amended claims 26, and 33 to particularly point out and distinctly claim the subject matter which the applicant regards as its invention. Specifically, the applicant has amended the claims to include the further limitation that the process chamber is for containing said particulate material. The applicant respectfully submits that claims 26 and 33 are now allowable as they particularly point and distinctly claim the subject matter which the applicant regards as its invention, by indicating that the particulate matter is contained in the process chamber. By amending claim 26, and 33, the applicant incorporates the same limitation as used in independent claim 11. The applicant respectfully submits that one of skill in the art would understand what is claimed in claims 26 and 33, with the above added limitation when the claims are read in light of the specification.

The applicant has added new claims 35–40. New claims 35–40 are each dependent on currently amended independent claim 26. Further, claims 35–40 substantially reflect existing claims 16–21. The applicant respectfully submits that claims 35–40 are allowable as they are based on independent claim 26, which the applicant respectfully submits is patentable as amended.

For the foregoing reasons, applicant respectfully submits that pending claims are allowable over the cited references, and written in proper form.

Respectfully submitted,

/Wesley W. Whitmyer, Jr./

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